

# CAFO Regulation by DEQ in Michigan



Mike Bitondo  
Water Bureau  
Department of Environmental Quality

# What is a CAFO?

A livestock or poultry operation is a CAFO when it stables or confines animals for 45 days in any 12-month period,  
and  
does not sustain vegetation in the confinement area



# How Many Animals Make a CAFO?

- 700 dairy cows
- 1,000 veal calves
- 1,000 beef, heifers, steers, bulls cow/calf
- 2,500 mature swine (over 55 lbs)
- 10,000 immature swine (less than 55 lbs)
- 500 horses
- 10,000 sheep/lambs
- 55,000 turkeys
- 30,000 laying hens/broilers w/ liquid manure handling system
- 125,000 chickens (other than broilers) w/ other than liquid....
- 82,000 laying hens w/ other than liquid....



# History of Regulations

US EPA adopted rules for CAFOs in 1974 & 1976

Rules were confusing, thus some states, including Michigan, didn't permit CAFOs

## **2002** –

Michigan's first CAFO general permit and developed a program where CAFOs without a discharge could participate in livestock system of MAEAP – Michigan Agriculture Environmental Assurance Program - [www.maeap.org](http://www.maeap.org)

Apply by 9-1-2005, verified by 9-1-2006, expired 12-31-2007

All CAFOs, both MAEAP and permitted must develop a Comprehensive Nutrient Management Plan (CNMP) that describes management of their waste.

## **2003** –

EPA promulgated new federal CAFO rules, which were challenged by both farm & environmental groups

## **2004** -

DEQ issued a general permit for new CAFOs to comply with the new federal rules, and that permit was challenged

## **2005** –

Federal appeals court ruled on challenges to the 2003 federal CAFO rules – portions upheld, vacated or remanded

DEQ promulgated new CAFO rules

DEQ issued a third CAFO general permit

## **2006** –

Circuit court ruled in our favor on challenge to our permit but that ruling was appealed

## **2007** –

All CAFOs in MAEAP and under the first permit were to have applied for permit coverage by July 1, 2007

Plus another lawsuit filed by farm groups claiming permits are not required

## **2008** –

The appeals court ruled against us on challenge to our permit but we have appealed to the MI Supreme Court

Ongoing – EPA revised rules process & state legislation.....

# What is a Discharge?

- A discharge is a release of nutrients, pathogens, manure, or polluted storm water into waters of the state.
- Waters of the state include: *county drains, ditches, creeks, rivers, wetlands, lakes, ponds, and groundwater.*





# General Permits

- Applicable Statewide – not issued to a specific facility
- Certificate of Coverage (COC) issued to specific farm – provides coverage under a general permit

# Individual Permits

- Issued to a specific farm.
- Required under certain circumstances
- May be requested by applicant to allow for special provisions



# NPDES Permit Process

- Application
- Draft COC or Permit
- Public comment/ public hearing process
- Issue
- Appeal process



# Public Comment/Hearings

- Process: 14 or 30 day comment period
- Hearing only if requested by interested parties and determined appropriate by DEQ
- Responsiveness document prepared

## Challenges to COCs/Permits

- Administrative process
- DLEG Hearings officer
- Decision maker is the DEQ Director
- Next step is Circuit Court





# CAFO Permits

## Requirements at the Production Area

- Adequate Manure Management and Proper Storage
- Collection of Contaminated Runoff

## Requirements at Land Application Areas

- Field by Field Analysis
- Rates, Prohibitions, Methods, Setbacks



## **Which CAFOs need Groundwater Permits?**

- R323.2210 specifies items to be permitted to discharged to the groundwater without a permit.
- Includes animal feeding operations with less than 5000 animal units which is defined as:
- 3500 dairy cows, 5000 beef cattle, 12,500 swine >55 lbs., 275,000 turkeys, 150,000 chickens, etc.
- CAFOs with more animals and that have a discharge (land application) must apply for a groundwater permit.
- Permit will include additional restrictions to protect groundwater including storage liner requirements and land application restrictions.

# CAFO Permits

Permit does a good job of controlling nutrient discharges.

We think it does a good job of controlling pathogen discharges but we are not sure.

Field Staff Conducts Periodic Compliance Inspections



# CAFO Permitting Progress

181 CAFOs permitted

12 No Potential to Discharge Determinations granted

1 NPTDD pending (permitted CAFO)

1 No application

2 Applications on hold pending enforcement settlements (one currently permitted)

24 Applications in process (5 are currently permitted reissuances)

214 Total CAFOS

- CAFO Web Site:
  - [www.michigan.gov/deq](http://www.michigan.gov/deq)
    - Water
      - Surface Water
        - » NPDES Permits
        - » Concentrated Animal Feeding Operations





